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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,934	10/19/2004	Petri Ahonen	879A.0118.U1(US)	2516
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EXAMINER				
ARMOUNCHE, HADI S				
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2432				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/511,934

Applicant(s)

AHONEN, PETRI

Examiner

HADI ARMOUCHE

Art Unit

2432

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-11 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 19 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. This communication is in response to applicant's amendment filed on 06/01/2009. Claims 1, 4-9 and 11 have been amended. Claims 1-11 remain pending.

Response to Arguments

2. Applicant's amendment to claims 1, 4 and 6 obviate previously raised claim rejection under 35 U.S.C. 112, second paragraph. Claim rejection under 35 U.S.C. 112, second paragraph is hereby withdrawn.
3. Applicant's argument regarding the previously raised claim objection is persuasive. Claim objection to claim 1 is hereby withdrawn.
4. Applicant's arguments (pages 9-13) have been fully considered but they are not persuasive.
5. It has been argued that it would not be an obvious to one of ordinary skill in the art to combine Relander with MacInnis (page 11 of the remarks) since MacInnis teaches downloading different versions of software or data modules without requiring two-way client-server communications (page 10 of the remarks) whereas Relander teaches plurality of terminal equipments.
6. Applicant's interpretation of the references has been noted. However, a reference may be understood by the artisan as suggesting a solution to a problem that the reference does not discuss. See *KSR*, 137 S. Ct. at 1742, 82 USPQ2d at 1397 ("Common sense teaches...that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the

teachings of multiple patents together like pieces of a puzzle... A person of ordinary skill is also a person of ordinary creativity, not an automaton.”).

Moreover, MPEP 2123(II) states:

Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. *In re Susi*, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). “A known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use.” *In re Gurley*, 27 F.3d 551, 554, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994) (The invention was directed to an epoxy impregnated fiber-reinforced printed circuit material. The applied prior art reference taught a printed circuit material similar to that of the claims but impregnated with polyester-imide resin instead of epoxy. The reference, however, disclosed that epoxy was known for this use, but that epoxy impregnated circuit boards have “relatively acceptable dimensional stability” and “some degree of flexibility,” but are inferior to circuit boards impregnated with polyester-imide resins. The court upheld the rejection concluding that applicant’s argument that the reference teaches away from using epoxy was insufficient to overcome the rejection since “Gurley asserted no discovery beyond what was known in the art.” 27 F.3d at 554, 31 USPQ2d at 1132.). Furthermore, “[t]he prior art’s mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed....” *In re Fulton*, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 4-5, 7 and 9-11 are rejected under 35 U.S.C. 103(a) as being anticipated by Relander et al. (US 2002/0066012) referred to hereinafter by Relander in view of MacInnis (US 5,951,639).

9. Regarding claims 1, 5, 7 and 11, Relander teaches a *system comprising a plurality of terminal equipment configured to communicate with one another using end-to-end encryption* [abstract], *where at least one of the plurality of terminal equipment functions as a special server terminal device configured to manage and distribute encryption applications and encryption parameters based on an established criterion to other pieces of the plurality of terminal equipment, where the encryption applications and encryption parameters are used during the end-to-end encryption* [paragraphs 0006, 0007, 0009, 0026, 0031 and 0033], *and where each of said plurality of terminal equipment comprises:*

a codec configured to convert an audio signal into a dataflow and vice versa [paragraph 0026], *said terminal equipment further comprising:*

a module configured to manage the encryption applications and encryption parameters (initialization vector IV) [paragraphs 008, 0032 and 0037],

an encryption key stream generator configured to generate a key stream segment with the said encryption parameters [paragraphs 0006, 0026 and 0032],

a processor configured to encrypt the dataflow and decrypt the encrypted dataflow with the generated key stream segment [equation in paragraph 0026],

wherein the module is configured to synchronize of the encrypted dataflow and to de-synchronize the synchronization [abstract and paragraph 0007].

Even though Relander teaches having the key stream generator and the synchronization control as part of the system in the form of hardware components or applications pre-installed in the system and that both are equivalent to and perform the functionality of encryption and synchronization applications of the current claimed invention, Relander does not explicitly teach that *the terminal equipment is configured to download the encryption applications and encryption parameters from said special terminal device via at least one interface*. MacInnis teaches that *the terminal equipment is configured to download the encryption applications and encryption parameters from said special terminal device via at least one interface* [abstract and col 2 lines 18-52].

At the time of the invention was made, it would have been obvious to an ordinary skill in the art to download to the terminal equipment (such as a cell phone) the needed software/applications/modules to be able to communicate (encrypt/decrypt/synchronize) with the other terminal over the network [MacInnis, col1 lines 6-15].

10. Regarding claim 4, Relander teaches a *system wherein the downloading of the encryption applications and the encryption parameters at the terminal equipment is arranged to take place in a self-organizing manner with Short Data Service messages* [paragraphs 008 and 0037 where the packets received are re-arranged to the original data sent].

11. The method of claim 9 has the same limitation as the system of claim 4 and hence same rejection rational is applied.

12. Regarding claim 10, Relander teaches that *the method is implemented in a wireless terminal equipment* (cell phone/mobile station/TETRA base station) [paragraph 0002 lines 1-5 and paragraph 0025 lines 12-13].

13. Claims 2, 3, 6 and 8 are rejected under 35 U.S.C. 103(a) as being anticipated by Relander in view of MacInnis and in further in view of Papineau (US 7,092,703).

14. Regarding claim 2, the combined teaching of Relander and MacInnis does not explicitly teach that the *system is configured to run applications of a Java 2 Platform Micro Edition specification with said processor*.

Papineau teaches that the *system is configured to run applications of a Java 2 Platform Micro Edition specification with said processor*. [col 2, lines 9-19 and 31-40].

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to run application according to J2ME in the combined teaching of Relander and MacInnis system/phone as taught by Papineau. The suggestion/motivation would have been to run application in mobile devices that implement J2ME since they are memory constraint and have limited processor [Papineau, col 2, lines 41-52].

15. Regarding claim 3, Papineau teaches that the *system is configured in accordance with a Mobile Information Device Profile specification* [col 2, lines 53-58].

16. Regarding claim 6, Papineau teaches that *the encryption applications and the encryption parameters are configured to arrange command functionality at least at the interface between a subscriber identity module and the terminal equipment through a*

mobile information device profile application protocol programming interface [col 2, lines 53-58].

17. The method of claim 8 has the same limitation as the apparatus of claim 6 and hence same rejection rational is applied.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HADI ARMOUCHE whose telephone number is (571)270-3618. The examiner can normally be reached on M-Th 7:30-5:00 and Fridays half day.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. A./
HADI ARMOUCHE
Examiner, Art Unit 2432

/Gilberto Barron Jr./
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